

(Draft - Awaiting Formal Approval)  
**MINUTES OF THE  
ETHICS INTERIM COMMITTEE**  
Wednesday, June 17, 2009 – 9:00 a.m. – Room 450 State Capitol

**Members Present:**

Sen. Sheldon L. Killpack, Senate Chair  
Sen. Patricia W. Jones, Senate Cochair  
Rep. John Dougall, House Chair  
Rep. Rebecca Chavez-Houck, House Cochair  
Rep. Tim M. Cosgrove  
Rep. Brad L. Dee  
Rep. Kevin S. Garn  
Sen. Scott K. Jenkins  
Rep. Brian S. King  
Rep. Bradley G. Last  
Sen. Karen Mayne  
Rep. Carol Spackman Moss

Sen. Dennis E. Stowell  
Sen. Ross I. Romero

**Members Absent:**

Sen. Scott D. McCoy  
Sen. John L. Valentine

**Staff Present:**

Michael E. Christensen, Director  
John L. Fellows, General Counsel  
Eric N. Weeks, Deputy General Counsel  
Chelsea Barrett, Legislative Secretary

**Note:** A list of others present, a copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

**1. Task Force Business**

Chair Dougall called the meeting to order at 9:18 a.m.

**MOTION:** Rep. Dee moved to approve the minutes of the May 20, 2009 meeting. The motion passed unanimously with Sen. Jones and Sen. Mayne absent for the vote.

**2. Utah State Bar Ethics Deliberation Process**

Mr. Fellows distributed and presented "Utah State Bar Office of Professional Conduct Disciplinary Process," "Utah Bar Ethics Process," "U.S. House of Representatives Ethics Process," and "U.S. Senate Ethics Process." He explained that the documents were provided based on the Committee's inquiry from the last meeting. Mr. Fellows briefly reviewed the Utah Bar Ethics Disciplinary Process using the diagram. He explained that an informal complaint must be verified and notarized with convincing evidence in order for the case to proceed.

Mr. Fellows answered questions from the Committee.

Rep. Cosgrove inquired whether the Utah Bar Ethics Disciplinary Process is a public or private procedure. Mr. Fellows explained there are many possible scenarios that would affect whether it is public or not.

Rep. Chavez-Houck questioned who does the filing of complaints and the purpose of the notarization process. Mr. Fellows noted that complaints can come from anyone and that the notarization is a method to ensure there is substance to the complaint filed.

Rep. King inquired about the number of complaints in a month or year period. Mr. Fellows noted he can gather this information, but does not have it available at this time.

Sen. Killpack explained the necessity that each filed complaint has substance and tactful timing.

Rep. Garn asked about the possibility of having the Utah State Bar's process adopted into a political process. Mr. Fellows noted that it is one example of an ethics process in a professional situation. The Committee could use this process, or parts of this process, for the ethics model for the Legislature.

Rep. Cosgrove inquired about the composition of the standing panel of the Utah State Bar's ethics panel. Mr. Fellows noted that he will provide this information to the Committee at the next meeting.

Rep. Moss noted the difference between a professional versus political environment in regards to the timing of a filed ethics complaint. Rep. Last explained that the timing of such complaints isn't necessarily a controllable factor.

Sen. Stowell questioned the formality of Utah's legislative ethics process. Mr. Fellows noted that the Legislature has a formal ethics procedure.

Sen. Romero noted the importance of the public being informed about pending ethics complaints. He explained that constituents have the right to know what is happening in their political communities. Sen. Killpack further noted that ethics complaints are public knowledge and that the process should be fair with both sides represented.

### **3. Ethics Commissions - Their Jurisdiction and Authority**

Mr. Christensen distributed and presented "2009 Ethics Commissions - 50 State Comparative." He explained that the document compares the powers, duties, and jurisdiction of ethics commissions within the 50 states. Mr. Christensen outlined Alaska, Florida, and Colorado's commissions. He explained that the composition, appointments, and authority vary within each state.

Mr. Christensen answered questions from the Committee.

Sen. Romero noted that both candidates and local officials are included in some state's commissions. Mr. Christensen noted that when elected officials are members of a commission, there is typically statutes that outline their involvement.

### **4. Ethics Commissions and State Constitutions**

Mr. Fellows distributed and presented "State Independent Ethics Commissions -- State Survey Separation of Powers Case Law," "Facts About Various Independent Ethics Commissions," and "Case Law Addressing Ethics Commissions."

He explained that all states have some sort of state ethics oversight entity, but noted that the jurisdiction of these entities vary. Mr. Fellows explained that this research only reflects independent ethics commissions over legislatures. He noted that the constitutionality of an independent ethics commission depends on how the commission is structured and advised.

Rep. King inquired if all states have a similar statute as Article VI, Section 10 of the Utah Constitution. Mr. Fellows explained that virtually every state has some form of this article in their ethics procedure.

Sen. Romero requested additional information about the North Carolina ethics process. Mr. Fellows noted that additional information will be available in the upcoming meeting.

Rep. Chavez-Houck inquired about the difference between an advisory versus an investigative commission. Mr. Fellows noted that an investigative group could vary, while an advisory board could be a more informal process and noted that he will look into more detail of these terms.

Sen. Romero questioned whether the states with commissions were able to separate political affiliations in appointments that were governed under the legislative branch. Mr. Fellows introduced Ms. Nina Norton and asked for her assistance in answering questions regarding the research.

Ms. Nina Norton, Paralegal, Office of Legislative Research and General Counsel, explained that the makeup of the political parties within commissions could be researched and this information made available to the Committee. Rep. Chavez-Houck requested additional information on the number of cases, frequency of complaints and the disciplinary actions taken in each respected case, and the number of counter complaints filed.

## **5. Other Items / Adjourn**

Chair Dougall noted that several members of the Committee have expressed interest in hearing from Congressman Rob Bishop regarding the congressional ethics process. He noted that the committee chairs are in the process of extending this invitation for the August 19 interim meeting.

Rep. Chavez-Houck requested that the handouts distributed in today's meeting become available on the legislative website. Mr. Fellows noted that these documents will be available.

**MOTION:** Rep. Dee moved to adjourn the meeting. The motion passed unanimously with Sen. Jones and Rep. Garn absent for the vote.

Chair Dougall adjourned the meeting at 10:37 a.m.